

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHONY F. NATALE,

Defendant.

Criminal Action No.: 09-64 (JLL)

ORDER

LINARES, District Judge.

This matter comes before the Court by way of Defendant Anthony Natale's motion seeking that the Court modify its previously issued sentence with regard to restitution to \$0 from the previously issued restitution order of \$9,501,103.89. Having reviewed the Defendant's motion and the opposition thereto, the Court finds as follows:

1. Defendant pled guilty to a one-count information, charging him with conspiracy to commit mortgage fraud.

2. As part of Defendant's plea agreement, he knowingly and voluntarily waived his right to file any appeal or collateral attack in any manner. Defendant's present motion, however, nevertheless attacks that portion of his sentence dealing with restitution.

3. Defendant's challenge to the restitution portion of his sentence is pursuant to Rule 60(b) and is thus in contravention of his agreement under the plea and also procedurally deficient, as Rule

60(b) is not an appropriate avenue for the redress sought by Defendant.


4. The fair market value and/or sales from the disposition of the subject properties was in fact considered in the loss calculation and was part of the process of arriving at the restitution amount.

Therefore, based on the aforesaid findings,

IT IS on this ~~22~~²³rd day of February, 2012,

ORDERED that the motion by Defendant is hereby DENIED.

IT IS SO ORDERED.



Jose L. Linares
United States District Judge